

10108-002A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Stanley R. Luhr
Application No.	:	10/900,734
Filed	:	July 28, 2004
For	:	SYSTEMS AND METHODS FOR SELECTING AND PRIORITIZING CONSTRUCTION CHECKPOINTS
Confirmation No.	:	7597
Group Art Unit	:	3623
Examiner	:	Brandi P. Parker

**DECLARATION OF STANLEY R. LUHR
SUBMITTED UNDER 37 CFR 1.132**

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

I, Stanley R. Luhr, declare as follows:

1. I am the inventor and the applicant for the above-captioned U.S. patent application and for copending U.S. Patent Application No. 10/802,129.
2. I developed the system and method disclosed in the present application in response to a need that I perceived in the construction industry with respect to latent construction defects that may not be found until long after a project is completed.
3. Although all construction projects are inspected as a matter of course, it is not economically practical to inspect every element of a major construction project. Thus, prior to my system and method, inspectors would often inspect checkpoints have relatively small risk of occurrence of a defect or having a relatively small associated financial risk in the event of a defect

while failing to inspect a checkpoint having a higher risk of occurrence of a defect or a having a higher financial risk in the event of a defect. Depending on many different factors, the risk of occurrence of a defect at a particular checkpoint and the financial risk associated with a defect at a particular checkpoint vary from project to project and from builder to builder.

4. On or about January 2002, I conceived of my system and method for selecting and prioritizing construction checkpoint system based on an analysis of all of the potential checkpoints for a construction project in combination with information that is specific to the project, such as, for example, the geographic location of the project, the type of structure being built, the complexity of building components, the quality of building components, history of deficiencies in previous projects by the builder, and the codes and specifications applicable to the project.
5. I incorporated my concept into a quality assurance software system that I developed to analyze the project-specific information in combination with the thousands of available checkpoints, to identify and prioritize the possible checkpoints that are more likely to be associated with a construction defect for the project being evaluated.
6. My quality assurance software system enables an inspector to focus the time available for inspection on the checkpoints identified and prioritized by the analysis.
7. My quality assurance software system also enables an inspector to further prioritize the checkpoints to be inspected based in part on the financial risks associated with particular defects and based in part of the current stage of construction.
8. My quality assurance software system increases the likelihood that any construction defects that do occur are identified before the defects are covered by, or incorporated into, later stages of construction such that the

defects can be remediated more easily and less expensively than if allowed to become latent defects that must be corrected after the project is completed.

9. My quality assurance software system was first made available to the construction industry in late 2003 or early 2004 and is now being distributed under the Quality Built trademark.
10. At the present time, over 6,200 builders have incorporated my quality assurance software system into their overall quality assurance methodology, and currently 18 of the largest U.S. homebuilders and commercial contractors.
11. Many large insurers of builders have recognized the value of my quality assurance software system in reducing the incidence of latent construction defects in large construction projects, and currently my quality assurance software system is the only such system to be specifically endorsed and mandated by the largest construction liability insurers, including, for example, Zurich, Arch, Lexington, Lloyds of London, Contractors Choice and more than 20 others.
12. The value of my quality assurance software system to builders and their insurers is evidenced by an approximately 40-percent reduction in construction liability insurance premium for builders using my system. Major builders, such as John Laing Homes, Western Pacific Housing and Granville Homes have been publicly recognized in the industry and the press for their quality assurance efforts, as shown for example in the following press reports attached as Exhibits A-O:
 - A. *Extreme Makeover - Quality Built® Helps John Laing Homes Build Dream Home for Deserving Family for ABC's Extreme Makeover: Home Edition, BIA Builder*, January 2006, pages 44-47;

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- B. *The Most Common New Building Defects*, St. Louis Construction News & Review, January 1, 2006, 2 pages;
- C. *Top Builder Defect Data for Construction Industry Revealed*, Insurance Journal, January 11, 2006, 3 pages;
- D. *John Laing scores well in Quality Built's risk audit*, Sacramento Bee, March 25, 2006, 1 page;
- E. *John Laing Homes among leaders in minimizing risk*, Lincoln News Messenger, Lincoln, California, March 30, 2006, 1 page;
- F. *Top Builder Defect Data for New Single-Family Home Construction*, IMCnet News, May 9, 2006, 1 page;
- G. *Western Homes Top the Nation in Quality Production*, Builder Online (Washington, DC), June 27, 2006, 3 pages;
- H. *Best is in the West - As construction of housing slows, size and quality on the increase*, Daily Transcript, San Diego, California, June 28, 2006, page 1 of multipage article;
- I. *John Laing Homes lead U.S. in minimizing risk exposure*, Gold Country Homes, July 7, 2006, 2 pages;
- J. *More New Homes Contain Life-Threatening Defects*, Realty Times, July 7, 2006, 3 pages;
- K. *Mold Found Where Least And Most Expected*, Realty Times, July 18, 2006, pages 1-2 out of 3;
- L. *Homes by Towne specializes in waterfront communities*, The Miami Herald, March 9, 2007, 1 page;
- M. *Quality Built® releases data at IRMI Orlando Conference October 29, 2007*, Quality Built Press Release, October 2007, 3 pages; and

N. *Despite Downturn, Construction Industry Still Focusing on Quality,*
Quality Built Press Release, International Builders Show, Las Vegas,
Nevada, January 20, 2009.

13. Based on construction industry data since the introduction of my quality assurance software system, it has been estimated that my quality assurance software system has saved the construction approximately \$9 Billion by eliminating latent construction defects. These estimates are evidenced by public data surveys published by Quality Built, reviewed by the trade industry and published in articles. This same risk data forms the basis of innovative new programs that are now emerging, such as the Nuway insurance product introduced by Wick Pilcher, which is discussed in the November 12, 2009 Declaration of Jeffrey J. Cook, which is submitted with this declaration.
14. The performance of my quality assurance software system continues to improve as additional checkpoints are captured (more than 40 million checkpoints to date) and are used to identify and prioritize inspection checkpoints for particular projects.
15. The foregoing statements are based upon information within my personal knowledge, and I believe the statements are true and correct.

Respectfully submitted,

Dated: November 16, 2009

By: Stanley R. Luhr
Stanley R. Luhr